

REMARKS

Claims 1-37 are currently active.

The Examiner has placed a restriction requirement on the above-identified patent application. The Examiner has determined that there are 11 different inventions claimed in the above-identified patent application. Invention 1 has Claims 1-9, 11, 12, 16, 17, 23 and 25-31. Invention 2 has Claim 10. Invention 3 has Claims 13-15. Invention 4 has Claims 18 and 24. Invention 5 has Claims 19-22. Invention 6 has Claim 32. Invention 7 has Claim 33. Invention 8 has Claim 34. Invention 9 has Claim 35. Invention 10 has Claim 36. Invention 11 has Claim 37. Applicant elects Invention 1 having Claims 1-9, 11, 12, 16, 17, 23 and 25-31 with traverse.

Applicant respectfully requests the Examiner reconsider the restriction requirement and rescind it with respect to Inventions 2, 3, and 5-10. First, the Examiner has already issued an Office Action dated December 4, 2001, where the Examiner rejected the claims on their merits, and did not raise any type of restriction requirement. Applicant's response to this first Office Action resulted in an amendment to the claims pursuant to discussions the applicant had with the Examiner. At no time did the Examiner ever indicate there was ever any concern with the fact that there were different inventions. In fact, the

Examiner had indicated the commonality of the claims because of the concern of the term "non-biological movement" that was found throughout the claims, and desired more definite language, which applicant provided in accordance with the Examiner's discussions and request.

The finding in the first Office Action of indefiniteness regarding the term "non-biological movement" that is throughout the claims, is also the basis by which a single patentability search for the claims of Invention 1 will also reveal the patentability of the claims in Inventions 2, 3, and 5-10 identified by the Examiner. No additional classes or sub-classes will need to be searched by the Examiner to determine the patentability of Inventions 2, 3 and 5-10 from that of Invention 1.

For example, Claim 10 of Invention 2 has the limitation of "identifying and quantifying short-lived effects or transitive effects of added moiety on motility of the cell in the solution". Claim 13 of Invention 3 has the step of controlling ambient motion of the cell in the solution as a reproducible method for analysis of motion in the 2d or 3d environment with non-adherent cells". The analysis of motion in a 2d or 3d environment with non-adherent cells, would also be revealed in regard to the limitation of "identifying and quantifying short-lived effects or transient effects . . . of the cell in the solution" found in Claim 10 of Invention

2. These limitations would further be revealed in regard to the step of "measuring the motility of the cell in the solution" of Claim 1 of Invention 1.

Claim 19 of Invention 5 has the limitation of "analyzing the effect of the protein on various attributes of the aspects of the cell". Again, this limitation will be revealed in a search regarding the limitation of "measuring the motility of the cell in the solution" of Claim 1.

Claim 32 of Invention 6 has the limitation of "measuring biological cell motility". Again, Claim 1 has the limitation of "measuring the motility of the cell". Claim 33 of Invention 7 has the limitation of "measuring biological motility"; Claim 34 of Invention 8 has the limitation of "measuring swimming verses moving of cells in the solution"; Claim 35 of Invention 9 has the limitation of measuring the effects tilt has on cell motion"; Claim 36 of Invention 10 has the limitation of "treating the cell with a desired material; and reintroducing the methyl cellulose into the solution"; and Claim 37 of Invention 11 has the limitation of identifying specifics of populations of cells of similar phenotype which show similar specific responses". All of these limitations would be revealed in a patentability search regarding Claim 1 and the limitation of "measuring the motility of the cell".

To reiterate, a common theme through all of these claims is in the movement of the cell in a solution where the movement of the cell that is caused by an activity other than the activity of the cell itself, is suppressed.

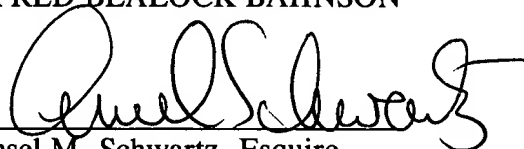
If the Examiner does not agree with applicant's argument, then once the Examiner places the restriction requirement for a status, applicant will cancel the non-elected claims.

In view of the foregoing remarks, it is respectfully requested that Claims 1-37, now in this application be allowed.

Respectfully submitted,

ALFRED BLALOCK BAHNSON

By


Ansel M. Schwartz, Esquire

Reg. No. 30,587

One Sterling Plaza

201 N. Craig Street

Suite 304

Pittsburgh, PA 15213

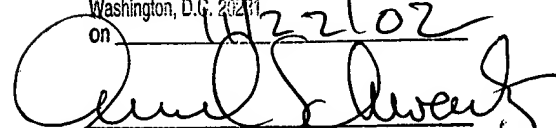
(412) 621-9222

Attorney for Applicant

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on


Ansel M. Schwartz,
Registration No. 30,587

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